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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,402	07/02/2001	Junichi Nishiyama	011350-279	9965

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EXAMINER

THOMPSON, JAMES A

ART UNIT

PAPER NUMBER

2624

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/895,402

Applicant(s)

NISHIYAMA, JUNICHI

Examiner

James A. Thompson

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 29 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-21.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 29 September 2005 have been fully considered but they are not persuasive.

Regarding page 2, line 1 to page 5, line 8: After giving Applicant's personal brief summary of Applicant's understanding of Dellert (US Patent 6,154,755), Applicant alleges that Dellert does not teach or suggest a) printing a specific image data and a reading condition data detected during reading of the document image, as claimed in claims 1 and 8, and b) reading condition data includes document size, number of pages, reading mode, resolution and image quality data including one or all of these data.

Examiner responds that while (a) is not the exact claim language found in either claim 1 or claim 8, it is still a useful summary of the point in contention; and (b) is a restatement of the limitations found in dependent claims 3, 13 and 19. As discussed in the previous office action, dated 16 June 2005, Dellert discloses a generator (figure 1(14(portion)) of Dellert) for generating an index data including the specific image data (column 5, lines 8-13 of Dellert) and the reading condition data (column 5, lines 23-25 and lines 28-32; and column 6, lines 30-33 of Dellert). Column 5, lines 8-13 of Dellert specifically mentions that "[t]he user can save copies of selected pictures from the floppy disk to the hard disk. A category can be assigned by the user to each image so the user can organize his pictures. An IMGALBUM folder is created and within it the THUMB and IMGAGES folders ('folders' sometimes being references herein as 'directories')." Thus, specific

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image data is stored in an index. Furthermore, the reading condition data detected during reading of the document image is stored in association with said image data (column 5, lines 23-25 and lines 28-32; and column 6, lines 30-33 of Dellert). The reading condition data generated by the apparatus of Dellert are the image objects listed in the image object list (column 5, lines 28-32 of Dellert), the image titles (column 6, line 32 of Dellert), and the image timestamp (column 6, lines 32-33 of Dellert). The objects and the timestamps at the very least are clearly generated during the reading of the document. As is well-known in the art, a timestamp gives a "stamp" which states at what time the file, in this case an image file, was generated. Thus, a timestamp (at the very least) can be construed as reading condition data.

The specific image data and reading condition data are then printed (figure 2; and column 6, lines 22-24 and lines 30-33 of Dellert) by the printer taught by Dellert (figure 1(16) and column 2, lines 41-44 of Dellert). Furthermore, the teaching that the image is specifically a document image is taught by Wang (US Patent 6,069,715), as discussed on page 5, line 24 to page 6, line 5 of said previous office action.

While (b) has not been taught by Dellert, Examiner has not at all suggested that (b) is taught by Dellert. As stated above, the limitations of (b) are a restatement of the limitations found in claims 3, 13 and 19, which have been rejected under 35 USC §103(a) as being rendered obvious by Dellert in view of Wang and Takayanagi (US Patent 5,680,226) (claims 3 and 13) or Dellert in view of Takayanagi (claim 19). It is Takayanagi which teaches, by combination with Dellert in view of Wang (for claims 3 and 13) or by combination with

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Dellert (for claim 19), the limitations of claims 3, 13 and 19. This is demonstrated in full in the relevant arguments on pages 11-12 and on page 16 of said previous office action.

**Regarding page 5, lines 9-19:** Again, as above, Examiner has not suggested that (b) in this section of Applicant's arguments is taught by Dellert. It is Takayanagi which teaches, by combination with the base references, the limitations that Applicant restates differently in (b) of this section. As to (a), which is a restatement of certain limitations found in claim 10, namely the specified image data and reading condition data detected during reading of the document image, Dellert in view of Wang teaches generating index data including the specific image data and a reading condition data detected during reading of the document image, as already set forth above and discussed similarly in the rejection of claim 10 found in said previous office action. Dellert further teaches a transmitting device (figure 1(14(portion)) of Dellert) for transmitting the index data, which is comprised of said specific image data and said reading condition data, to said printing device (column 6, lines 26-36 of Dellert). Applicant should note that Examiner has clearly relied on more than merely column 4, lines 20-33 of Dellert in rejecting the limitations of claim 10 under dispute in said previous office action.

**Regarding page 9, line 20 to page 6, line 5:** Again, as above, Examiner has not suggested that (b) in this section of Applicant's arguments is taught by Dellert. It is Takayanagi which teaches, by combination with the base references, the limitations that Applicant restates in (b) of this section. Again, Dellert in view of Wang has been demonstrated to teach the limitations under dispute which are stated in a different

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fashion by Applicant in (a) of this section of Applicant's arguments. Applicant is respectfully directed to the arguments regarding claims 1, 12 and 17 on pages 4-6 of said previous office action. Applicant will note that far more has been relied upon to teach claims 1, 12 and 17 than the one passage noted by Applicant in this section of Applicant's arguments.

**Regarding page 6, line 6 to page 8, line 14:** As demonstrated on page 5, line 22 to page 6, line 5 of said previous office action (for example), Wang teaches specifically reading a *document image*. The remaining limitations under dispute, as restated in (a), (b) and (c) of this section of Applicant's arguments, have been taught by Dellert, as already discussed above.

**Regarding page 8, line 15 to page 10, line 22:** The limitations that are actually recited in claim 18, which are restated in a different manner by Applicant in this section of Applicant's arguments, have already been substantively discussed above. Dellert discloses an output device (figure 1(16) of Dellert) for outputting the generated index data (figure 2; and column 6, lines 22-24 and lines 30-33 of Dellert). As already discussed above, the index data is the specific image data and the generating condition acquired when the image data is generated.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



25 October 2005

James A. Thompson  
Examiner  
Art Unit 2624



THOMAS D.  
~~LEE~~  
PRIMARY EXAMINER